THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

DATED: 17-10-2005

WRIT PETITION No.20814 OF 2005

Between:

Sri Ramchandra Educational Institution,

Khammam district. . . .Petitioner

And

The State of Andhra Pradesh and others . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.20814 of 2005

O R D E R:

The petitioner is an educational agency. It established three High Schools at Kothagudem. All the three institutions are admitted to
grant-in-aid. On account of retirement of the existing employees, as many as 15 teaching posts have fallen vacant. The petitioner submitted a representation, dated 08-04-2004, to respondents 2 to 4 seeking permission to fill the vacancies, but no orders have been passed thereon. The petitioner states that on the strength of a memo, dated 20-10-2004, issued by the first respondent, respondents 2 to 4 are not taking any action in the matter of according permission to fill the existing vacancies and the same is challenged in this writ petition.

Sri Pratap Narayan Sanghi, learned counsel for the petitioner submits that on account of non-existence of incumbents against the vacancies, the teaching in the institutions is suffering and there does not exist any justification on the part of the respondents in not according permission to fill the existing vacancies. He contends that the total ban imposed on recruitments against aided vacancies runs contrary to the very spirit of admitting institutions to grant-in-aid.

Learned Government Pleader for School Education, on the other hand, submits that the Government has taken a policy decision not to accord permission for filling up the existing aided vacancies in view of the fact that in several aided institutions, there are surplus teachers and efforts are being made to redeploy the surplus staff against the existing vacancies. He contends that the institutions of the petitioner would be adequately protected by posting the surplus staff.

The three institutions established by the petitioner are admitted to grant-in-aid. The purpose of admitting institutions to grant-in-aid is to rescue the private managements from the financial difficulties, in the matter of imparting education, particularly, at school level. The petitioner did not have any complaint till recently. In the three institutions, as many as 15 vacancies arose. The relevant provisions mandate that a vacancy, which is admitted to grant-in-aid, can be filled up, only after obtaining the permission of the concerned authority in the Education Department. It was in this context, that the petitioner submitted a representation, dated
08-04-2004.

The first respondent issued a memo, dated 20-10-2004, to the Director of School Education, the second respondent, informing the policy decision taken by the Government, which reads as under:

> *"No new posts of Grant-in-Aid would be created and the existing vacancies will also not be filled up, except what has been specifically authorized since there is a General ban on recruitment except for the posts, for which permission was specifically granted by the Government."*

The circumstances, under which the policy decision came to be taken, are explained by the learned Government Pleader for School Education.

It is not in dispute that the Government is competent to redeploy or transfer the employees from one aided educational institution to another aided institution. The only restriction is that the transfer shall be made within the zone of appointment in accordance with the Presidential order, issued under Article 371-D of the Constitution of India. The district happens to be the zone of appointment for the posts of teachers in the High Schools. Therefore, no exception can be taken to the policy formulated by the Government, to redeploy the teachers from such of the aided institutions where they are surplus, against the vacancies in the other aided institutions. In fact, the petitioner does not

seriously dispute the power of the Government in this regard. However, on the pretext of undertaking such an exercise, the matter cannot be delayed indefinitely. It hardly needs an emphasis that any delay in redeployment of the teachers or appointing them, as the case may be, would have its adverse effect on the quality of education in the concerned institutions.

For the foregoing reasons, the writ petition is disposed of directing that respondents 3 and 4 shall undertake an exercise forthwith, to identify the surplus posts of teachers in aided institutions within the district. The surplus teachers, so identified in the respective disciplines or places, shall be posted against the vacancies existing in the three institutions established by the petitioner, within six weeks from today. In case, no such surplus teachers are found or no deployment is undertaken within that period, respondents 2 and 3 shall accord permission to the petitioner, to fill the vacancies in accordance with law, within a period of four weeks thereafter.

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(L.NARASIMHA REDDY, J)

17th OCTOBER, 2005.

Note: furnish c.c. in three days.

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